

REFERENCE TITLE: state lands; closing airfields; approval

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SB 1362**

Introduced by  
Senators Gould, Blendu, Burns, Flake, Gray, Harper, Johnson, Martin,  
Verschoor

### AN ACT

AMENDING SECTION 37-132, ARIZONA REVISED STATUTES; RELATING TO STATE TRUST LAND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 37-132, Arizona Revised Statutes, is amended to  
3 read:

4           37-132. Powers and duties

5       A. The commissioner shall:

6           1. Exercise and perform all powers and duties vested in or imposed  
7 upon the department, and prescribe such rules as are necessary to discharge  
8 those duties.

9           2. Exercise the powers of surveyor-general except for the powers of  
10 the surveyor-general exercised by the treasurer as a member of the selection  
11 board pursuant to section 37-202.

12           3. Make long-range plans for the future use of state lands in  
13 cooperation with other state agencies, local planning authorities and  
14 political subdivisions.

15           4. Promote the infill and orderly development of state lands in areas  
16 beneficial to the trust and prevent urban sprawl or leapfrog development on  
17 state lands.

18           5. Classify and appraise all state lands, together with the  
19 improvements on state lands, for the purpose of sale, lease or grant of  
20 rights-of-way. The commissioner may impose such conditions and covenants and  
21 make such reservations in the sale of state lands as the commissioner deems  
22 to be in the best interest of the state trust. The provisions of this  
23 paragraph are subject to hearing procedures pursuant to title 41, chapter 6,  
24 article 10 and, except as provided in section 41-1092.08, subsection H, are  
25 subject to judicial review pursuant to title 12, chapter 7, article 6.

26           6. Have authority to lease for grazing, agricultural, homesite or  
27 other purposes, except commercial, all land owned or held in trust by the  
28 state.

29           7. Have authority to lease for commercial purposes and sell all land  
30 owned or held in trust by the state EXCEPT THAT: ~~, but~~

31           (a) Any such lease for commercial purposes or any such sale shall  
32 first be approved by the board of appeals.

33           (b) IN ADDITION, IF THE LAND WAS LEASED OR USED AS AN AIRPORT OR  
34 AIRFIELD ON JANUARY 1, 2005, THE LAND SHALL NOT BE SOLD, LEASED OR OTHERWISE  
35 DISPOSED OF FOR ANY OTHER PURPOSE, NOR MAY THE COMMISSIONER APPROVE THE  
36 CLOSURE OF THE AIRPORT OR AIRFIELD, UNLESS THE LEGISLATURE APPROVES THE  
37 ACTION BY CONCURRENT RESOLUTION.

38           8. Except as otherwise provided, determine all disputes, grievances or  
39 other questions pertaining to the administration of state lands.

40           9. Appoint deputies and other assistants and employees necessary to  
41 perform the duties of the department, assign their duties, and require of  
42 them such surety bonds as the commissioner deems proper. The compensation of  
43 the deputy, assistants or employees shall be as determined pursuant to  
44 section 38-611.

1       10. Make a written report to the governor annually, not later than  
2 September 1, disclosing in detail the activities of the department for the  
3 preceding fiscal year, and publish it for distribution. The report shall  
4 include an evaluation of auctions of state land leases held during the  
5 preceding fiscal year considering the advantages and disadvantages to the  
6 state trust of the existence and exercise of preferred rights to lease  
7 reclassified state land.

8       11. Withdraw state land from surface or subsurface sales or lease  
9 applications if the commissioner deems it to be in the best interest of the  
10 trust. This closure of state lands to new applications for sale or lease  
11 does not affect the rights which existing lessees have under law for renewal  
12 of their leases and reimbursement for improvements.

13       B. The commissioner may:

14       1. Take evidence relating to, and may require of the various county  
15 officers information on, any matter that the commissioner has the power  
16 to investigate or determine.

17       2. Under such rules as the commissioner adopts, use private real  
18 estate brokers to assist in any sale or long-term lease of state land and  
19 pay, from fees collected under section 37-108, subsection A, paragraph 10,  
20 subdivision (a), a commission to a broker that is licensed pursuant to title  
21 32, chapter 20 and that provides the purchaser or lessee at auction. The  
22 purchaser or lessee at auction is not eligible to receive a commission  
23 pursuant to this subsection. A commission shall not be paid on a sale or a  
24 long-term lease if the purchaser or lessee is another governmental agency.

25       3. Require a permittee, lessee or grantee to post a surety bond or any  
26 form of collateral deemed sufficient by the commissioner for performance or  
27 restoration purposes. The commissioner shall use the proceeds of a bond or  
28 collateral only for the purposes determined at the time the bond or  
29 collateral is posted. For agricultural lessees, the commissioner may require  
30 collateral as follows:

31       (a) As security for payment of the annual assessments levied by the  
32 irrigation district in which the state land is located if the lessee has a  
33 history of late payments or defaults. The amount of the collateral required  
34 shall not exceed the annual assessment levied by the irrigation district.

35       (b) As security for payment of rent, if an extension of time for  
36 payment is requested or if the lessee has a history of late payments of rent.  
37 The collateral shall be submitted at the time any extension of time for  
38 payment is requested. The amount of the collateral required shall not exceed  
39 the annual amount of rent for the land.

40       (c) A surety bond shall be required only if the commissioner  
41 determines that other forms of collateral are insufficient.

42       4. Withhold market and economic analyses, preliminary engineering,  
43 site and area studies and appraisals that are collected during the urban  
44 planning process from public viewing before they are submitted to local  
45 planning and zoning authorities.

1       5. Withhold from public inspection proprietary information received  
2 during lease negotiations. The proprietary information shall be released to  
3 public inspection unless the release may harm the competitive position of the  
4 applicant and the information could not have been obtained by other  
5 legitimate means.

6       6. Issue permits for short-term use of state land for specific  
7 purposes as prescribed by rule.

8       7. Contract with a third party to sell recreational permits. A third  
9 party under contract pursuant to this paragraph may assess a surcharge for  
10 its services as provided in the contract, in addition to the fees prescribed  
11 by section 37-108.

12      8. Close urban lands to specific uses as prescribed by rule if  
13 necessary for dust abatement, to reduce a risk from hazardous environmental  
14 conditions that pose a risk to human health or safety or for remediation  
15 purposes.

16      9. Notwithstanding subsection A, paragraph 4 of this section,  
17 authorize, in the best interest of the trust, the extension of public  
18 services and facilities either:

19       (a) That are necessary to implement plans of the local governing body,  
20 including plans adopted or amended pursuant to section 9-461.06 or 11-824.

21       (b) Across state lands that are either:

22          (i) Classified as suitable for conservation pursuant to section  
23 37-312.

24          (ii) Sold or leased at auction for conservation purposes.

25       C. The commissioner or any deputy or employee of the department shall  
26 not have, own or acquire, directly or indirectly, any state lands or the  
27 products on any state lands, any interest in or to such lands or products, or  
28 improvements on leased state lands, or be interested in any state irrigation  
29 project affecting state lands.